

## FEDERAL-UTAH STATE TRUST LANDS CONSOLIDATION ACT

---

OCTOBER 1, 2002.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

---

Mr. HANSEN, from the Committee on Resources,  
submitted the following

### R E P O R T

[To accompany H.R. 4968]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 4968) to provide for the exchange of certain lands in Utah, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Federal-Utah State Trust Lands Consolidation Act”.

#### SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) The San Rafael Swell in Utah is a 900-square mile, wild and beautiful region west of the Green River. The San Rafael Swell is dominated by the jagged, uplifted San Rafael Reef, which has nearly two dozen major canyons and many side draws and box canyons. The San Rafael Swell towers above the desert like a wilderness castle, ringed by 1,000-foot ramparts of Navajo sandstone. Its highlands have been fractured by uplift and scooped hollow by erosion over countless millennia, leaving a tremendous basin punctuated by mesas, buttes, and canyons and traversed by sediment-laden desert streams.

(2) The San Rafael Swell region was one of the country’s last frontiers and possesses important natural, historical, and cultural resources, including exceptional backcountry recreation opportunities, productive habitat for Desert Big-horn Sheep, important historical sites, including sections of the Old Spanish Trail and the Outlaw Trail, significant paleontological resources, and multiple wilderness study areas created pursuant to section 603 of the Federal Lands Policy and Management Act of 1976, or otherwise identified by local government and conservation interests as having significant conservation values. The beautiful rural landscapes, historic and cultural landscapes, and spectacular scenic vistas of the San Rafael Swell region contain significant undeveloped recreational opportunities for people throughout the United States.

(3) The State of Utah owns approximately 102,871 acres of land located in the San Rafael Swell region and administered by the Utah School and Institutional Trust Lands Administration. These lands were granted by the Congress to the

State of Utah pursuant to the Utah Enabling Act of 1894 (chapter 138; 23 Stat. 107), to be held in trust for the benefit of the State's public school system and other public institutions. The lands are largely scattered in checkerboard fashion amidst the Federal lands comprising the remainder of the San Rafael Swell area.

(4) Development of surface and mineral resources on State trust lands within the San Rafael Swell area, or the sale of such lands into private ownership, could be incompatible with management of such lands for nonimpairment of their wilderness characteristics pursuant to section 603(c) of the Federal Land Policy and Management Act of 1976, with future congressional designation of the lands as wilderness, or with future designation of such lands as a national monument, national heritage area, or other conservation designation.

(5) The State of Utah also owns 3,533 acres of land within or directly adjacent to the Manti-La Sal National Forest in Grand and Emery Counties, Utah, and 6,411 acres of land within the Red Cliffs Desert Reserve, a conservation reserve established in 1995 by the United States and Washington County, Utah, to implement a multiple-species habitat conservation plan approved by the Fish and Wildlife Service under section 10(a) of the Endangered Species Act of 1973. The Reserve contains the highest density of critical habitat for the Mojave desert tortoise, a threatened species, in the United States. These State trust lands are also administered by the Utah School and Institutional Trust Lands Administration, but the use of such lands by the State is limited because of the conservation designations of surrounding Federal lands.

(6) The United States owns lands and interests in lands elsewhere in Utah that can be transferred to the State of Utah in exchange for the San Rafael Swell inholdings, the Manti-La Sal forest lands, and the Red Cliffs Desert Reserve lands without jeopardizing Federal management objectives or needs.

(7) The large presence of State trust land inholdings in the San Rafael Swell region, the Manti-La Sal National Forest, and the Red Cliffs Desert Reserve makes land and resource management in these areas difficult, costly, and controversial for both the State of Utah and the United States.

(8) It is in the public interest to reach agreement on exchange of such inholdings, on terms fair to both the State of Utah and the United States. Such an agreement, subject to ratification by Congress and consent by the Utah legislature, would save much time and delay in meeting the legitimate expectations of the State school and institutional trusts, in simplifying management of Federal lands, and in avoiding the significant time and expense associated with administrative land exchanges.

(9) The State of Utah and the United States have reached an agreement under which the State would exchange certain State trust lands within the San Rafael Swell region, the Manti-La Sal National Forest, and the Red Cliffs Desert Reserve for various Federal lands outside of those areas but in the same region of Utah.

(10) The parties agreed at the outset of negotiations to avoid identifying Federal assets for conveyance to the State where any of the following was known to exist or likely to be an issue as a result of foreseeable future uses of the lands:

- (A) Wilderness study areas.
- (B) Areas proposed for wilderness designation in pending Federal legislation.
- (C) Significant endangered species habitat.
- (D) Significant archaeological resources.
- (E) Areas of critical environmental concern.
- (F) Other lands known to raise significant environmental concerns of any kind.

(11) Because the State trust lands to be acquired by the Federal Government include properties within some of the most spectacular wild areas in the western United States, and because a mission of the Utah School and Institutional Trust Lands Administration is to produce economic benefits for Utah's public schools and other beneficiary institutions, the exchange of lands called for in this agreement will resolve longstanding environmental conflicts with respect to existing and proposed wilderness study areas, place important natural lands into public ownership, and further the interests of the State trust lands, the school children of Utah, and these conservation resources.

(12) Under this agreement, the State interests to be conveyed to the United States by the State of Utah, and the Federal interests to be conveyed to the State of Utah by the United States, have been examined by licensed independent real estate consultants and, taken as a whole, have been found to be approximately equal in value.

(b) **PURPOSE.**—The purpose of this Act is to enact into law and direct prompt implementation of this agreement, and thereby to further the public interest by consolidating State and Federal lands into manageable units while facilitating the protection of lands with significant scientific, cultural, and natural resources.

**SEC. 3. RATIFICATION OF THE AGREED EXCHANGE BETWEEN THE STATE OF UTAH AND THE UNITED STATES.**

(a) **AGREEMENT.**—The State of Utah, the Department of the Interior, and the Department of Agriculture have agreed to exchange certain Federal lands in the State of Utah for lands of approximately equal value managed by the Utah School and Institutional Trust Lands Administration in the San Rafael Swell area of Utah, the Manti-La Sal National Forest, and the Red Cliffs Desert Reserve.

(b) **RATIFICATION.**—All terms, conditions, procedures, covenants, reservations, and other provisions set forth in the document entitled “Agreement for Exchange of Lands 2002 Federal-Utah State Trust Lands Consolidation”, dated June 18, 2002 (in this Act referred to as “the Agreement”), are hereby incorporated in this Act, are ratified and confirmed, and set forth the obligations of the United States, the State of Utah, and the Utah School and Institutional Trust Lands Administration, as a matter of Federal law.

**SEC. 4. CONVEYANCES.**

(a) **CONVEYANCES.**—All conveyances under sections 2, 3, and 4 of the Agreement shall be completed not later than 70 days after enactment of this Act.

(b) **MAPS AND LEGAL DESCRIPTIONS.**—

(1) **IN GENERAL.**—The maps and legal descriptions referred to in the Agreement depict the lands subject to the conveyances under the Agreement.

(2) **PUBLIC AVAILABILITY.**—The maps and legal descriptions referred to in the Agreement shall be on file and available for public inspection in the offices of the Secretary of the Interior, the Secretary of Agriculture, the Intermountain Regional Office of the Forest Service, and the Utah State Director of the Bureau of Land Management.

(3) **CONFLICT.**—In case of any conflict between the maps and the legal descriptions in the Agreement, the legal descriptions shall control.

(c) **CERTAIN COAL LANDS.**—

(1) **IDENTIFICATION.**—The Secretary of the Interior shall prepare legal descriptions for the approximately 4,000 acres of Federal lands that State of Utah and the Secretary have identified within sections 1 through 17 of township 22 south, range 6 east, and within township 22 south, range 7 east, Salt Lake Base and Meridian, Utah.

(2) **RESTRICTION ON CONVEYANCE.**—Conveyance of the lands identified in paragraph (1) shall reserve to the United States the coal estate and the right to develop the coal estate.

(3) **FUTURE DISPOSITION.**—Reservation of the coal estate pursuant to paragraph (2) shall not restrict future disposition of the coal estate pursuant to applicable law.

(d) **SPECIES IDENTIFICATION.**—Prior to any conveyances under this Act, the Secretary of the Interior shall identify Federal lands subject to the Agreement which contain wildlife species, or habitat of wildlife species, listed as a threatened species or an endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) or that is a candidate for such a listing.

(e) **INDEPENDENT MINERAL ASSESSMENT.**—Prior to any conveyances under this Act, the Secretary of the Interior and the State of Utah shall select an independent qualified mineral appraiser, or other qualified expert agreeable to both parties, who shall determine whether the terms of the Agreement related to the UA/UB parcel, identified in section 3(d) of the Agreement, are fair and equitable to both parties. If there is a contrary determination, the Secretary and the State shall adjust the exchange or terms of the Agreement so that the terms are fair and equitable to both parties.

**SEC. 5. PLANT AND WILDLIFE SPECIES.**

For the lands identified under section 4(d), and the lands identified in Exhibit E to the Agreement, the Secretary of the Interior and the State of Utah shall enter into an agreement which provides a process for the State to consult or take other appropriate action to avoid, offset, or mitigate adverse effects to any species or habitat identified.

**SEC. 6. MINERAL DEVELOPMENT.**

All payments received by the United States pursuant to section 13(c) of the Agreement shall be subject to sharing with the State of Utah in the same manner the United States shares bonus bids, rentals, and royalties with the State of Utah under section 35 of the Mineral Leasing Act (30 U.S.C. 191).

**SEC. 7. AUTHORIZATION.**

There are authorized to be appropriated such sums as are necessary to carry out this Act, including such sums as may be desired to reduce the balance of the interest and principal amounts owed by the United States to the Trust Lands Administration pursuant to sections 4 and 5 of the Agreement.

**SEC. 8. COSTS.**

The United States and the State of Utah shall each bear its own respective costs incurred in the implementation of this Act.

**PURPOSE OF THE BILL**

The purpose of H.R. 4968 is to provide for the exchange of certain lands in Utah.

**BACKGROUND AND NEED FOR LEGISLATION**

Due to the high percentage of federally-owned property in Utah and the resulting limited tax base, the State of Utah was given lands at statehood for the purpose generating income for public schools. The lands, scattered in checkerboard fashion across the State, have been held and controlled in a legal trust, with accrued interest to be used specifically for the benefit of public schools. In Utah, the State Institutional Trust Lands Administration is responsible for approximately 3.5 million acres, and by law it must maximize revenue for the benefit of Utah schools. Many of these lands have failed to generate their expected income as a result of being landlocked in sensitive environmental areas. Land exchanges, however, have proven to be a valuable tool to help the State consolidate its properties into manageable tracts to enable them to generate income, while also allowing the federal government to acquire sensitive environmental properties of high public interest and improve the maintenance and management of these lands.

The legislation would ratify a land exchange agreement reached between the federal government and the State of Utah. The agreement has been approved by the Secretaries of the Interior and Agriculture. The agreement must also be ratified by the Utah Legislature. The federal government would acquire approximately 113,000 acres of State trust lands, including those within the San Rafael Swell in Emery County, the Red Cliffs Desert Reserve habitat conservation plan area in Washington County, and lands within the Manti La Sal National Forest. The state would acquire approximately 138,000 acres. The negotiated land exchange process follows the pattern established in previous exchanges authorized in the 105th and 106th Congresses. An independent review considered the exchange to be of equal value.

The San Rafael Swell is a 900-mile region west of the Green River, containing the San Rafael Reef with dozens of beautiful side canyons. The region has significant natural, historical and cultural resources including habitat for Desert Bighorn Sheep, sections of the Old Spanish Trail and Outlaw Trail, and paleontological resources. The area has been the subject of considerable public interest, and contains many areas under consideration for various federal designations, including a national conservation area, national monument, or wilderness. Because of the potential incompatibility of these designations with resource development, it is beneficial to the State to trade out its lands within the Swell.

The exchange also contains trust lands within the Red Cliffs Desert Reserve, a habitat conservation plan area for the Desert Tortoise. The area contains the highest density of critical habitat for the threatened species in the United States. The potential development of these lands is also limited due to the federal designation.

Congress has twice recognized the authority and ability of the Secretary of the Interior to negotiate and enter into agreements similar to the proposal contained in this bill subject to the approval of Congress (Public Law 106–301; Public Law 105–335).

#### COMMITTEE ACTION

H.R. 4968 was introduced on June 19, 2002, by Congressman Chris Cannon (R–UT). The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on National Parks, Recreation, and Public Lands and the Subcommittee on Forests and Forest Health. On June 27, 2002, the Subcommittee on National Parks, Recreation, and Public Lands held a hearing on the bill. On July 18, 2002, the Subcommittee on National Parks, Recreation, and Public Lands met to mark up the bill. Mr. Cannon offered an amendment to insert the date the agreement between the two parties was actually signed. The amendment was adopted by voice vote and the bill, as amended, was ordered favorably reported to the Full Resources Committee by voice vote. On July 24, 2002, the Full Resources Committee met to consider the bill. The Subcommittee on Forests and Forest Health was discharged from further consideration of the bill by unanimous consent. On September 12, 2002, the Full Committee continued consideration of the bill. Mr. Cannon offered an amendment in the nature of a substitute to: ensure that the coal estate and its future disposition is reserved to the United States in a 4,000 acre tract within the “Emery Known Recoverable Coal Resource Area”; requires the Secretary of the Interior to identify, prior to conveyance, lands containing wildlife species, or habitat of species, which are listed as candidate, threatened, or endangered under the Endangered Species Act; to authorize the Secretary of the Interior and the Governor of Utah to enter into an agreement that provides a process for the State to consult or take other appropriate action to avoid, offset or mitigate adverse effects to any species or habitat identified; require an independent review, prior to conveyance, of the parcel of land known as the UA/UB tract and allow for the Secretary of the Interior and the State of Utah to make adjustments to the exchange to make the exchange fair and equitable if a contrary determination is raised by the review. The amendment was adopted by voice vote and the bill as amended was then ordered favorably reported to the House of Representatives by voice vote.

#### COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources’ oversight findings and recommendations are reflected in the body of this report.

## CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

## COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in tax expenditures. According to the Congressional Budget Office, enactment of this bill could result in income to the federal government of less than \$500,000 a year over the next 10 years.

3. General Performance Goals and Objectives. This bill does not authorize funding and therefore, clause 3(c)(4) of rule XIII of the Rules of the House of Representatives does not apply.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, September 27, 2002.*

Hon. JAMES V. HANSEN,  
*Chairman, Committee on Resources,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4968, the Federal-Utah State Trust Lands Consolidation Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Megan Carroll (for federal costs), and Marjorie Miller (for the state and local impact).

Sincerely,

BARRY B. ANDERSON  
(For Dan L. Crippen, Director).

Enclosure.

*H.R. 4968—Federal-Utah State Trust Lands Consolidation Act*

CBO estimates that implementing H.R. 4968 would cost less than \$500,000, assuming appropriation of the necessary amounts. The bill could affect direct spending (including offsetting receipts); therefore, pay-as-you-go procedures would apply, but we estimate that any such effects would be insignificant.

H.R. 4968 would ratify an agreement between the federal government, the state of Utah, and the Utah School and Institutional Trust Land Administration. In doing so, the bill would provide for a roughly equal value exchange of about 243,000 acres of federal and state lands and interests. Based on information from the Bureau of Land Management (BLM), we estimate that federal costs to complete the proposed exchange would not exceed \$500,000. According to the BLM, the federal lands to be exchanged currently generate no significant receipts and are not expected to do so over the next 10 years. Hence, CBO estimates that conveying those lands would not result in a significant loss of offsetting receipts.

Some of the federal lands to be conveyed contain deposits of oil shale, which, according to BLM, are unlikely to generate significant receipts in the near future because the agency currently lacks authority to develop such resources. Under H.R. 4968, if the state develops those resources, the federal government would receive a portion of the income that they produce. The likelihood of such development and extent of possible proceeds are highly uncertain, but based on information from BLM, CBO assumes that any increase in offsetting receipts from such resources would not exceed \$500,000 a year over the next 10 years.

H.R. 4968 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments. The only duties imposed on the state of Utah would be those assumed voluntarily by the state as a party to the exchange agreement, which has been signed by the governor and approved by the state legislature.

The CBO staff contacts for this estimate are Megan Carroll (for federal costs), and Marjorie Miller (for the state and local impact). This estimate was approved by Peter H. Fontaine, Deputy Assistant Director Budget Analysis.

#### COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

#### PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

#### CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

